

**ANNUAL REPORT
OF THE LAW BUREAU
OF THE CITY OF HARRISBURG
2008**

The City Solicitor and his or her staff perform a myriad of duties, encompassing all facets of trial practice, including courtroom litigation, administrative hearings, grievance hearings, appellate argument, and minor criminal prosecutions. The Law Bureau drafts legislation, contracts and other agreements for the various City departments and reviews those generated by individuals and companies seeking to do business with the City. The Solicitor responds to request for formal opinions from elected officials and department directors. The Law Bureau keeps a record of all tort claims filed against the City and litigation and administrative proceedings to which the City is a party. The City Solicitor or a designee attends all Legislative and Non-Legislative meetings of City Council as well as committee meetings upon request.

The year 2008 saw the departure of City Solicitor Steven R. Dade. Law Bureau Staff consisted of City Solicitor Philip J. Harper who was appointed by the Mayor to replace Mr. Dade. Christina N. Hinkson was appointed and approved as the Deputy City Solicitor. Other employees include Assistant City Solicitor Jason Hess, Senior Paralegal Michael Brownsweiger, and Office Manager Colleen Kline.

I. LITIGATION

As of December 31, 2008, there were forty (40) open litigation matters being handled by outside counsel, fifteen (15) personnel and twenty-five (25) general liability. The number of cases handled by outside counsel in whom the plaintiff seeks monetary damages that are covered by insurance decreased. The Law Bureau handled nineteen (19) summary prosecution cases which were taken to either the Magisterial District Judge or Dauphin County Court, i.e., codes enforcement violations or parking tickets which went to trial. Among the more time consuming and/or significant of these cases were the following:

SUMMARY PROSECUTIONS:

City of Harrisburg vs. Ryan Buck - City filed a Complaint in Equity seeking an Court Order directing Defendant to obtain necessary permits to rehab his house or to have it demolished and to remove all accumulated debris from the property and for a fine of \$100.00 a day for non-compliance with Court order. Complaint was served on September 8, 2008. On October 14, 2008, a 10 day notice of Default was sent to Mr. Buck. On October 27, 2008 a Default Judgment was filed. Court grants Motion and Order granting City the requested equitable relief. Defendant Buck required having permits within 15 days and having work completed or house will be demolished within 45 days. According to David Patton, Codes Director, building permit has been approved.

City of Harrisburg v. Joshua Holmes CV-203-07 Engineering Suit to recover cost to repair a light pole damaged by Mr. Holmes' vehicle. The driver was not in the vehicle. Don's towing removed the vehicle. A hold was not placed on the vehicle and Mr. Holmes was able to retrieve it from impound. Officer Salak cited Mr. Holmes but Salak did not show at the hearing and the case was dismissed. The cost to repair the pole totaled \$4,706.25. City filed suit for cost to repair light pole on Holmes with DJ Solomon. DJ Solomon found in City's favor – Judgment for \$4,706.25. Holmes appealed to the Court of Common Pleas. City filed Civil Complaint with the Prothonotary. Holmes never filed a responsive pleading to our Complaint. We sent Notice of Default Judgment to the Defendant. Praecipe to enter Default Judgment filed on 01/18/08. Praecipe to Assess Damages at \$4,706.25 filed on 02/05/08.

City of Harrisburg v. Magdi Moussa 14 SA 2008 - Mr. Moussa violated the International Property Maintenance Code and the City's Codified Ordinances allowing the occupancy of an unsafe structure. Codes Enforcement cited the Defendant in response to citizen complaints, as the illegal use of the property was creating great public concern. Defendant Moussa pled guilty and was issued both a fine and ninety (90) day probation by the Court.

LITIGATION:

Delanie Andrews vs. City of Harrisburg Defendant was cited for failure to comply with Condemnation Order. Three (3) citations were issued. Defendant found guilty in absentia before Magisterial District judge. Defendant filed appeal to Common Pleas Court where the Defendant was

found guilty and sentenced to two hundred seventy (270) days probation. Defendant appealed to Commonwealth Court where Appeal was defeated.

Kate Bell, Et Al vs. City of Harrisburg, Police Chief Charles Kaller, Mayor Stephen R. Reed, Tina Manoogian-King and Captain Pierre Ritter Docket No. 3:08-CV-01563-Civil Action. This litigation stems from arrests that were made back in September 2007. 125 people were attending a party on McCormick City Island. 50 people attending the party filed this lawsuit claiming the arrests were violating their civil rights. Plaintiff's demanding \$5.5 MM. Discovery is proceeding in this matter.

Faith Hope & Love vs. City of Harrisburg, Department of Building and Housing Development Docket No. 2008-CV-9495 MP. Plaintiff is a non profit corporation and maintains address at 123 North 13th Street, in the City of Harrisburg. Plaintiff is claiming that Defendant City of Harrisburg did not properly advertise the meeting of the Harrisburg Property Reinvestment Board of June 26, 2008. Plaintiff's property was declared a "blighted property." Defendant appealed to Common Pleas Court claiming lack of proper notice and improper determination of blight. Law Bureau prepared to file a Motion to Dismiss Appeal as the Appeal was improper and untimely at subsequent VPRB meeting defendant stipulated to the condition of blight of property sought 30 days to pay taxes and enter into a rehab agreement with the City. City agreed to accept stipulation and extend 30 days to pay back taxes. Def. also agreed to withdraw her appeal. After 30 days def failed to pay back taxes VPRB refused to enter into rehab agreement and property was certified as blighted to HRA for condemnation.

Handwerk Site Contractors v. City of Harrisburg, Engineering Bureau Docket No. 2008-CV-15551

On May 14, 2008; Handwerk filed a notice of claim against the City's Bureau of Engineering with regard to the City of Harrisburg's Street Paving Project. Handwerk submitted a change order request on July 31, 2008, due to the asphalt escalation costs. On August 4, 2008, the City denied the change order request on this project for the higher cost of asphalt on this project. Handworks have yet to file a formal complaint in this matter.

Herre Bros., Inc. Joseph Strong, Inc., d/b/a Strong Fire Protection and H&R Mechanical, Inc. v. City of Harrisburg and PA Commerce Bancorp, Inc. Docket No. 2008-CV-13393-EQ. Cameron Real Estate (CRE) is the owner of property located at 1000 North Cameron Street known as the Capital View Commerce Center Project. State and federal funding including private funding from Commerce Bank has financed this Project. Plaintiffs brought this case in equity and quasi-contract alleging that they were third party beneficiaries to the City's contracts with CRE under which contracts the City acted to pass through to Cameron both state and federal fund that the City has secured from HUD and the Commonwealth. In May of 2008 several contractors filed mechanics liens for amounts they allege they were not paid by CRE for work done on the project and all work stopped. Several contractors filed actions against David Dodd, the developer, and CRE. In October 2008, Plaintiffs filed the subject action. City filed its answer to Plaintiff's complaint and subsequent Preliminary Objections. As of December 31, 2008, the PO's are still pending and minimal discovery has begun.

Mary Jane Olsen vs. City of Harrisburg, HRA, HAD, THA and City of Harrisburg Docket No. 2008-CV-14570. Plaintiff states that while walking on the sidewalk of 333 Market St. her right foot got trapped in a hole left by a water line/cover plate which was not covered and she fell forward causing damage to her right arm, right shoulder and both knees. Plaintiff Olsen is demanding judgment against the City of Harrisburg and others.

Momodou Njie v. Dauphin County Prison DeRose, Dauphin County Commissioners and City of Harrisburg, Mayor, et al. Docket No. 3:08-CV-2043 US Middle District Ct. – Travelers retained David Karamessinis, Esq. to represent the City. Complainant alleges that on or about 06/16/08 he was an inmate at Dauphin County Prison and was abused by prison guards and denied his civil rights.

Danny Reid & Debra (his wife) v. City of Harrisburg, et al. Docket No. 2008-CV-13476. Complainant was hurt in a vehicle collision in May 2008 on South 14th Street. Defendant Reinard was approaching the intersection of South 14th Street and failed to yield the right-of-way. Complainant and Defendant John Reinard both stated that there were no stop signs or any other traffic control device in place.

TAX APPEAL CASES

225 Market Street Venture v. Dauphin County Board of Assessment Appeals Docket No. 2008-CV-12918-TX. On 03/11/09 from Attorney for the Dauphin County Tax Assessment Board of Appeals who enclosed Stipulation and Motion re: 225 Market St. (Old Colonial Theater) asked Solicitor to execute and return so he could file in DC Court.

Comfort Inn and Passage to India Restaurant 525 South Front St - Appeal of the Board's Decision to raise market value of property from \$3,070,000 to \$4,800,000. Letter from Board requesting city, school district and county pay prorated shares.

II. BANKRUPTCIES AND MORTGAGE SATISFACTIONS

At the end of 2008, the City had and estimated four hundred fifty (450) open bankruptcy cases. During 2008 the Court discharged or dismissed one hundred and thirty nine (139) cases. Seventy-one (71) Proofs of Claim were filed during 2008. Also, the Law Bureau filed thirty-four (34) mortgages and nine (9) Mortgage Satisfactions for calendar year 2008.

III. MAJOR PROJECTS

The Law Bureau played a significant role in several major projects, which were either undertaken or continued in 2008:

Labor- Law Bureau has assumed responsibilities relating to AFSCME contract negotiations, grievance arbitrations, Fire/Police contract arbitration, and disciplinary reviews. By adopting responsibility for these labor issues, the City will realize a significant savings by reducing reliance on outside council.

Police Pension Board - Law Bureau attended all monthly meetings of the police pension board and

provided legal counsel. Of note, the Law Bureau participated in negotiations with the FOP to resolve a dispute over the buy back of military time toward pension credits regarding calculating the cost for service credits and the procedure required to make the purchase. The measure was unanimously approved by City Council and the FOP withdrew with prejudice a previously filed Declaratory Judgment action.

City Lien Docket – In conjunction with O&R and IT, the Law Bureau established a process to assure that all city liens for utilities, improvements and demolitions are timely filed, entered into an electronic city lien docket and notice of the lien is given to property owners. Such a lien docket is required under the Third Class City Code, meets the requirements for public access, and assures that the City does not fail to file liens within the statutory limitations period. The system keeps a running balance due on the liens and automatically generates a satisfaction piece once the payment is made in full. Thus far the City has seen an increase in the number of property owners making payments on city liens.

Police/Fire Civil Service Boards - Law Bureau attended all scheduled meetings of the respective boards and provided legal counsel.

7th Street Acquisitions- Law Bureau worked with outside counsel to assist with acquisitions of properties by way of amicable sale or eminent domain for the 7th Street Widening project. Also, acted independently to acquire properties from the Redevelopment Authority of the City of Harrisburg and Vartan for the same purpose.

IV. LEGISLATION

In the year 2008, Thirty (30) Ordinances and Sixty-two (62) Resolutions were presented to City Council for introduction. Among the legislation introduced by City Council are as follows:

An Ordinance entitled “Smoke Free Air Law” which prohibits smoking in all building and facilities that are owned leased or operated by the City of Harrisburg.

An Ordinance entitled “Life Partnership Registry” which allows any two adults in a committed relationship who reside together and are committed, support and caring where both parties to the relationship support the financial and physical welfare to each other and intend to continue in this manner.

An Ordinance amending the Codified Ordinances of the City of Harrisburg, creating a new Section entitled Demolition as part of a developing project to prohibit demolition of historic, district buildings as part of a land development until such time final construction drawings have been approved.

An Ordinance amending Chapter 2-707.23 of the Codified Ordinances by revising the formula for calculating buyback amounts and establishing a standard interest rate applicable for purchases of non-intervening military service credits by Members of the Combined Police Pension Plan.

An Ordinance amending Title 8 of the Codified Ordinances of the City of Harrisburg, by deleting the Residential Rental Unit Inspection and Disorderly Property provisions and adding a new chapter regarding Residential Rental Unit Permits and Disruptive Properties.

An Ordinance amending Chapter 8-509 of the Codified Ordinances of the City of Harrisburg, titled Buyer Notification Inspection Program, by changing the title of the Chapter to more fully describe its intent and purpose, by eliminating the requirement for property inspections in all cases, by limiting the types of properties which are subject to the provisions of this Chapter and by creating a Zoning Certification and an associated administrative filing fee.

A Resolution approving the sale of a portion of the Front Street right-of-way between Chestnut Street the Cumberland Valley Railroad Bridge and bordering the Pinnacle Healthcare System Harrisburg Hospital for Eighty Thousand Dollars (\$80,000.00).

A Resolution approving the signing of the Signature Page for Grant Application and Grant Agreement by the Mayor of the City of Harrisburg for application to the Department of Conservation and Natural Resources for a grant to undertake public improvements to the Commerce Bank Park.

V. DOCUMENT DRAFTING AND REVIEW

The Law Bureau drafted or reviewed twenty-two (22) Agreements or Contracts for form and legality which I have listed just a few.

AGREEMENTS/CONTRACTS:

1. Agreement between City of Harrisburg, Police Bureau and Westmoreland Council of Governments Vehicle & Equipment Purchasing Program for the purchase of new City Police vehicles.
2. Agreement between City of Harrisburg, Police Bureau and Harrisburg Housing Authority to provide Police Officers to perform specialized patrols to enforce all state and local laws for a term of one year.
3. Lease Agreement between City of Harrisburg, Parks and Recreation Department and Dauphin County Commissioners would lease a certain tract or area of ground located within Reservoir Park to construct a cell tower.
4. Promotion Agreement for Tourism between City of Harrisburg, Mayor Stephen R. Reed, the Hershey Harrisburg Regional Visitors Bureau.
5. Agreement between City of Harrisburg, Department of Public Works and Todd Heller, LLC whereby the City will sell Recyclable materials to Heller for a one year period.
6. Consulting Agreement between City of Harrisburg, Department of Building and Housing Development and Johnson, Mirmiran & Thompson to perform study for the new North 3rd Street Corridor Plan.

7. Maintenance Contract between the City of Harrisburg, Bureau of Fire and Guardian Fire Equipment annual periodic maintenance for all fire vehicles years 2008-2009.
8. Service Agreement between City of Harrisburg, Information Technology and D&E Communications for the purpose of installing and configuring for new backup server project.
9. Transfer Agreement between the City of Harrisburg, Pinnacle Health Hospitals whereby a portion of Front Street right-of-way between Chestnut Street and Cumberland Valley Railroad Bridge shall be transferred from the City to Pinnacle Hospital.
10. Consulting Agreement between the City of Harrisburg, Parks and Recreation and The African American Chamber of Commerce for the expansion of the Commerce Bank Park Renovation project.

VI. ONGOING ACTIVITIES

The following day-to-day tasks consume a great deal of Law Bureau staff time. Notification to City departments for assistance with Right-to-Know request, twenty-one (21) just in the 2008 calendar year also, sheriff sales/foreclosures requests from Police Records to verify and release records for court cases.

Notification to appropriate insurance carriers of twenty (20) 6 month notices of claim six (6) new lawsuits filed against the City, and maintenance of records of all matters pertaining thereto, including all cases assigned to outside counsel by the City's insurer. Preparation and filling of mortgages and mortgage satisfactions for the Department of Building and Housing Development (DBHD). Preparation of monthly case management report, police accreditation and auditing reports.

Preparation of weekly new bankruptcy case filings dismissed bankruptcy cases and discharged cases.

Legal staff research and drafted fifteen (15) new opinions, at the request of the Mayor, City Departments and City Council.

VII. TECHNOLOGICAL ADVANCES

The Law Bureau has utilized several internet based programs to assist in the retrieval of research materials, information and data without leaving the office. Some of these are as follows:

Public Access to Court Electronic Records (PACER) which is utilized to research bankruptcy information such as performing a report of new bankruptcy cases filed dismissed cases and discharged cases.

Electronic Case Filing (ECF) for the Middle District Court of Pennsylvania allows the City to file documents electronically and check the docket report for cases.

The Law Bureau has been working with Information Technology to develop a Case Management program. This program will allow us to maintain litigation and non-litigation cases electronically for better access and updating.

VII. BUDGET

The Law Bureau's 2008 budget was \$ 346,796:

<u>Budget Category</u>		<u>Total</u>
Personnel		\$ 209,839
Salaries -	\$ 209,839	
Fringe Benefits -	\$ 78,822	
Operating Expenses		\$ 58,135
Communications -	\$ 1,450	
Professional Fees -	\$ 31,035	
Maintenance Contracts -	\$ 0	
Contracted Services -	\$ 5,300	
(Includes tuition for CLE)		
Supplies and expenses -	\$ 20,350	
Capital Outlay	\$ 0	
	\$346,796	

CONCLUSION

The Law Bureau continues to work with all departments within City Government as well as outside agencies and Authorities.

Respectfully submitted,

Philip J. Harper
City Solicitor